

**Stafford County
BOARD OF ZONING APPEALS**

MINUTES February 27, 2007

The regular meeting of the Stafford County Board of Zoning Appeals on Tuesday, February 27, 2007 was called to order with the determination of a quorum at 7:00 p.m. by Chairman Cecelia Kirkman in the Board of Supervisor's Chambers in the Stafford County Government Center. Ms. Kirkman introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. She asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing or affirming to tell the truth.

Ms. Kirkman said the By-laws of this Board state that the applicant is allowed up to ten minutes to state their case, the other speakers are allowed up to three minutes to testify, and the applicant is allowed up to three minutes for rebuttal.

Members Present: Cecelia Kirkman, Larry Ingalls, Julie Rutledge, Angelo Amador, Ernest Ackermann

Members Absent: John Overbey, Steven Beauch

Staff Present: Rachel Hudson, Acting Zoning Administrator
Melody Friberg, Senior Zoning Technician
Wanda Doherty, Recording Secretary

Declarations of Disqualification's: None

PUBLIC HEARINGS:

Ms. Friberg reviewed the following case for the Board

V06-8/2600878 - LITTLE FOREST BAPTIST CHURCH - Requests a Variance from Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards, R-1, Suburban Residential", of the rear yard requirement to construct an addition to an existing nonconforming structure on Assessor's Parcel 21-89A. The property is zoned R-1, Suburban Residential, located at 54 Little Forest Church Road.

Ms. Kirkman asked if any members of the Board had questions of staff.

Mr. Ingalls said the original site plan we reviewed in 1999 showed a side yard along the property line identified as 220 feet and the current plan shows a 10-foot side yard rather than a 35-foot

rear yard. He asked if the Zoning office has determined if this is a side yard and not a rear yard.

Ms. Hudson said the determination for the side yard is as it is shown, 10 feet on that one side. She said it is now a side yard and not a rear yard.

Ms. Kirkman opened the Public Hearing.

Gloria Greenhouse said on behalf of the Little Forest Baptist Church they are going to have Jim Walker speak on their behalf.

Jim Walker said he represents the engineering firm of Patton, Harris and Rust and the Little Forest Baptist Church has retained us to prepare a site plan to build a 3,338 square foot addition to their existing 2,640 square foot Church. He said the addition meets the county requirements for open space ratio. He said the building must meet current zoning requirements, which requires a 35 foot back yard for the property. He said the existing building built in 1906 lies approximately 10.6 feet from the rear property line. He said this creates a hardship for the applicant in that a building addition that would otherwise meet the requirements cannot be built with out a 25-foot Variance to the 35-foot backyard requirement.

Mr. Walker said in 1999 the trustees of Little Forest Baptist Church retained the services of Warder and Associates, Inc. to get a site plan and approved to build an addition to the Church. Warder and Associates, Inc. retained the services of Kephart and Company to prepare the site plan and perform a boundary survey of the subject site. He said based upon the Kephart and Company survey the existing building is within 13 feet of the rear property line. He said upon that information Warder and Associates, Inc. applied for a 22-foot Variance to the required 35-foot backyard requirement and received approval from the Board of Zoning Appeals in V99-01/99009 dated January 27, 1999. He said in February 1999 the board of trustees of Little Forest Baptist Church obtained the services of Larry N. Scarts a licensed surveyor in the State of Virginia to prepare a building location plat for the subject property. He said based on this survey the building falls within 10.6 feet of the rear property line. He said his firm was not contracted and did not perform a full boundary survey the group did find buried iron pipe in the course of performing a topographical survey of the property which appears to confirm the survey and findings of surveyor Larry Scartz.

Mr. Walker said the difference in the two surveys makes it necessary to request a 25-foot Variance. He said with respect to the Variance request other alternatives have been considered and rejected prior to filing this application. He said the Church tried to swap land with the adjoining property owner for the purpose of increasing the distance between the existing Church building and the rear property line. He said the adjoining property is currently owned by six surveyors of the prior owner and attempts to contact them all and reach an agreement on this issue proved impossible. The relocation of this Church to another site is an alternative but the trustees would rather use this historic structure rather than abandon it.

Mr. Ingalls said that was a nice speech but have you read the Ordinance and looked at what is required of this Board to grant a Variance in terms of a hardship.

Mr. Walker said the existing building was put there in 1906 and at this time, the Church could not expand and would have to move. He said the building addition would be allowed by the current zoning. He said the issue is the existing building is too close to the property line and that is an issue that needs to be resolved before they can move forward. He said he did not think approval of the Variance would have an adverse effect on the adjacent property owners.

Ms. Rutledge said another requirement is the hardship cannot be self-inflicted and in 1999 according to the minutes, we received this evening, the request for the 22-rear yard Variance was for an addition that was 2,363 square feet. She said the request tonight is for an addition of 3,338 square feet, can you address the request for the difference.

Mr. Walker he said the Church is requesting a larger addition but the setback is not for the addition but for the existing Church. He said they reason they are back asking for the additional three feet was because of a surveyor error.

Ms. Rutledge asked if the survey error did that result in the building being built too close to the rear yard.

Mr. Walker said the existing building was there when the surveys were done.

Mr. Ingalls said to minimize the impact to the rear yard did you consider pushing the proposed building a little further to the front.

Mr. Walker said the addition is not impacting the rear yard but they can look at it.

Mr. Ingalls said it looks like an access on the corner.

Mr. Walker said they could look at shifting the building.

Ms. Kirkman said when the applicant originally applied for the original Variance a lot of years have lapsed has the Church tried during that time to obtain the land from the adjoining property owners.

Nelson Snead, Pastor of Little Forest Baptist Church asked Ms. Kirkman to repeat her question.

Ms. Kirkman said in the first Variance application it was stated it was too costly to obtain additional acreage in order to meet the setback requirements and in this application, you are stating there are too many owners to get the consent. She asked what has been done in the meantime, what efforts have been made.

Pastor Snead said when the original plan was submitted the current Pastor at that time passed away before it was finished. He said the Church did not select another Pastor for two or three years until another Pastor was selected. He said in 2001 within a month of a new Pastor starting he and his three sons died in a car accident. He said it was 2002 before he was hired and the activity on the building had been set aside. He said they did approach the owners to work with them with no results. He said they could not get any agreements with the owners and they are in the process now of selling the land and their incentive is not to work with us to meet our needs.

Ms. Kirkman asks if the membership of the Church had grown.

Pastor Snead said currently from 100 to 125 and an average attendance of 80.

Ms. Kirkman said your parking is based on 50, where is the additional parking going to come from.

Mr. Walker said they would have to look into that, the number we had to work with was 50.

Ms. Kirkman said if you do not receive the Variance would you continue to use the property.

Pastor Snead said it has created quite a hardship. He said when they have Church school or bible study we have two classes in the same room in the main sanctuary because we do not have enough space. He said they would like to serve the community much better and we cannot in the situation we are in now.

Mr. Ingalls said he understands what happened before and why the delay in proceeding with the previous project. He said if we were to think about a time frame for seeing these things move forward, it has always been a goal of mine that if someone asks and receives a Variance they move forward. He said it has been nine or ten years and things change in the neighborhood and if you do not do anything somebody wakes up one morning and wants to know how something happened and it was an action by this Board ten or more years ago. He said when do you plan to open this new facility if the new Variance is approved, two or three years.

Pastor Snead said he hopes by the end of this year.

Proponents:

Gloria Greenhouse said my being a member of Little Forest Baptist Church for all of my life, there has been things that occurred, and we are even looking into the future to more building and the Variance would take care of that as well.

Opponents: None

Ms. Kirkman gave the applicant a final opportunity to speak.

Ms. Kirkman closed the public hearing.

Motion:

Ms. Rutledge made the motion to approve for a three-foot additional Variance with the condition that the proposed addition would not further encroach into the building restriction line in the rear.

Mr. Ackermann seconded.

Ms. Rutledge said she made the motion because of some unfortunate reasons the applicant did not proceed on the Variance from 1999. She said the problem addressed in 1999 is the same problem that we are presented with this evening and there are no additional Variance requests other than the three foot and than the error by a surveyor. She said the purpose of this Board is to fix errors that occur and it was unfortunate but it was not the applicant's error.

Mr. Ingalls said he would support the motion only if it was changed slightly. He said to make the connection between the proposed and existing building they would need to encroach into that rear yard behind the existing building. He said if you look at the picture, there is a door where the 10.1 feet dimension is, a door comes out towards the front of the Church and I assume that is going to be an access. He said that little tiny area behind; I would like to let them build in that little corner. He said it is not encroaching, that the building would block anything in the encroachment towards the property to east or west whichever it is, so the adjacent property owner would not even see that little bit of encroachment because of it being behind the building. He said he could support it if we made sure they would be able to do that. He said he believed it would be important to them to make that little tie in and give them another access into the new Sunday school building.

Ms. Rutledge could we ask this one question of the applicant.

Ms. Kirkman asked the representative to step to the microphone.

Ms. Rutledge asked Mr. Walker if he could tell from the drawing, what Mr. Ingalls is suggesting. She said they do not want to grant something and again it not be enough.

Ms. Ingalls said if Mr. Walker could look where it looks like a vestibule area, that vestibule area is what I am referring to.

Mr. Walker said if you look at drawing six.

Mr. Ingalls said if the motion where to pass the building would have to come forward some to get out the 35 foot set back and that vestibule would still be able to be there.

Mr. Walker said moving the building forward would cause a problem.

Mr. Ingalls said if you have the vestibule, you could tie it in.

Mr. Walker said that is correct.

Ms. Kirkman said you would be able to move the rest of the line of the rear of the building forward so that the rest of the building would not encroach any further in the setback, is that correct. She said that right now, the rear of the building in addition to the vestibule encroaches into the setback; we are not allowed to increase nonconformity.

Mr. Walker said that is probably a question for the architect and the Church to decide. He said we could look at it if that is what it takes to get the Variance approved.

Ms. Kirkman asked if there is an amendment to the motion.

Ms. Rutledge said she hesitates to amend the motion when we do not have the person before us who could answer the question.

Mr. Ingalls said we could make a decision on what we can grant.

Ms. Rutledge said she would amend the motion to grant a three-foot Variance allowing only the vestibule to encroach into the rear building restriction line.

Mr. Ingalls seconded.

Mr. Amador said his only concern is that we should hear from the applicant that they can or cannot do this. He said this is the second time they are here maybe we should wait until next month.

Mr. Walker said they have the people to make the decision, but would hope you could approve the Variance and leave the building addition as shown in the site plan. He said they want the suggestion that Mr. Ingalls pointed out. He said if there is no other way to get the Variance approved then to shift the building.

Ms. Rutledge said Madame Chairman I would leave the motion as it stands, I do not feel we can increase a nonconforming structure.

Ms. Kirkman asked Ms. Rutledge to restate her motion.

Ms. Rutledge said the amended motion is for a three foot Variance with the proposed addition not to encroach further into the building restriction line except for the area that is shown as the vestibule on the plan submitted to the Board this evening.

Ms. Kirkman said all those in favor of the amendment to amend the original motion condition to allow the encroachment solely for the vestibule area.

Vote:

Motion to approve 4-1

Mr. Ingalls – yes

Ms. Rutledge – yes

Ms. Kirkman – no

Mr. Amador – yes

Mr. Ackermann – yes

Ms. Kirkman said now we will vote on the amended original motion.

Ms. Rutledge called for the question.

Ms. Kirkman said we will vote on the amended motion to allow the Variance with the condition that solely the vestibule be allowed to encroach into the set back.

Mr. Amador said for the record he would like to state that this was basically a mapping error and this Board relied on the findings that the Board had already made back in 1999 when they provided the Variance and the requirements for hardships where met then.

Vote:

Motion to approve 5-0

Mr. Ingalls – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Amador – yes

Mr. Ackermann – yes

Ms. Friberg reviewed the following case for the Board

SE07-1/2700068 - MOLINO, CARMEN P & MICHELE K BUCHKO - Requests a Special Exception per Stafford County Code, Section 28-273, "Nonconforming Structures or Residential

Buildings", to allow an addition to an existing nonconforming single family dwelling on Assessors Parcel 21B-3-699. The property is Zoned R-1, Suburban Residential, located at 1006 John Paul Jones Drive, Aquia Harbour Subdivision.

Ms. Kirkman said she wanted to make sure the adjacent property owners were notified.

Ms. Friberg said the adjacent property owners were notified.

Ms. Kirkman asked if any members of the Board had questions of staff.

Ms. Kirkman opened the Public Hearing.

Mr. Molino stated he would like to add a screen porch on the deck in the rear of his house. He said the staff report read was exactly correct; the only thing he could add is the real problem is the change in the Zoning Ordinance. He said the side of his yard is now his rear yard. He said they have taken the screen addition and moved it so it would meet the 29' feet required.

Mr. Ingalls said the drawing in the packet is not clear. He said it is a new screen porch, which goes all the way to the end of the house.

Mr. Molino said they shifted back so they could meet the setback.

Mr. Ingalls said so it will be about five feet from the corner of the house so you have a minimum of 29 feet from the screen porch to the rear property line.

Mr. Molino said that is correct.

Mr. Ingalls asked how long the screened in porch would be.

Mr. Molino said it will be half of the deck 13' x 14' and will occupy half of the existing deck and moved back five feet from the property line.

Mr. Ingalls said the deck currently goes to the corner.

Mr. Molino said it matches up with what use to be the side of the house and is now the back of the house.

Mr. Ingalls said you are going to have a little bit of the deck towards the property line and a little bit of the deck to the other side.

Mr. Molino said it does not make his wife very happy, all she wanted was a reading room in the back where she could be mosquito free to read her books. He said this is not what she wanted.

He said she wanted it lined up with the back of the house but we are agreeing the easiest thing to do is chop five feet off and give her a reading room.

Ms. Rutledge said usually when we approve a Special Exception of this nature we have the plans in front of us.

Ms. Friberg handed out five additional sets of plans.

Ms. Kirkman asked if the deck has been built.

Mr. Molino said yes.

Ms. Kirkman said your plan indicates that the roof actually extends to the end of the dwelling, is that correct.

Mr. Molino said yes.

Ms. Kirkman said the deck is covered and has supporting timbers and all it is missing is screen.

Mr. Molino said no.

Mr. Ingalls asked if he could ask staff a question. He said there use to be something called a roof/deck and we got rid of the term. What is it called now? A deck may or may not have a roof. He said the only reason he is asking is the existing deck has a roof on it.

Mr. Molino said no.

Mr. Ingalls said if we tell him he can put a roof over the deck would that affect something else.

Ms. Friberg said if you put a roof over a deck, it becomes a porch and has to meet the definition and setbacks of a porch.

Ms. Kirkman said this would not meet the 29-foot setback because the roof extends all the way to the end of the building.

Mr. Ingalls said what you are saying is he cannot put a roof on the last five feet.

Mr. Molino said he considered that an overhang and part of the roof.

Ms. Rutledge said are you saying it is already there.

Mr. Molino said no that is planned to be built.

Ms. Rutledge said the five-foot area that you move the porch back; we cannot allow a roof into that 29 feet.

Mr. Molino said so what you are saying is both the screened porch and the roof on the screen porch need to meet the 29 feet setback.

Mr. Ingalls said when you put a roof over a deck it is no longer a deck it is a porch and you have to meet porch rules.

Ms. Rutledge asked if Mr. Molino if he would be willing to adjust his plan accordingly.

Mr. Molino said yes, it is just a matter of removing the roof or move the roof back.

Ms. Kirkman said seeing no one in the audience it does not appear to be anyone for or against the application.

Mr. Molino said they are sorry they waited so long to do this and that the zoning was changed before they could get it done.

Ms. Kirkman closed the Public Hearing.

Motion:

Ms. Rutledge made the motion to approve with the condition that there will be no encroachment into the 29 feet including the roof over the deck area.

Mr. Amador seconded the motion.

Ms. Rutledge said she made the motion because she feels all of the requirements to grant a Special Exception have been met. She said this is another example of a corner street where the Ordinance changed and created a hardship for the applicant.

Mr. Ingalls said he agrees with the motion because this is a perfect example of a house that was built at a time when the rear of the house was the rear yard, it was caught in a zoning change, and not something, the applicant did.

Vote:

Motion to approve 5-0

Mr. Ingalls – yes

Ms. Rutledge – yes

Ms. Kirkman – yes
Mr. Amador – yes
Mr. Ackermann – yes

UNFINISHED BUSINESS

Ms. Kirkman said there was a draft of the Annual report sent out to the Board members. She said in the last discussion there was a motion to divide the question and move on each section separately, would anyone like to make that motion with this report.

Ms. Rutledge said she would still like to state that it is really not appropriate for our new member to participate on the annual report because he was not present last year. She said that is like trying to approve minutes when you are not present for a meeting.

Mr. Amador said he would say again especially since the report is a summary, member's change and the Board speaks through its own decisions and opinions. He said if three people were to leave than we could never approve some of these things and we should move forward.

Ms. Kirkman asked Ms. Rutledge if she was raising that as a point of order or did she just want to note her concern.

Ms. Rutledge said she is just putting her objection on the record.

Ms. Kirkman asked if the Board wanted to have a motion to divide the question.

Motion:

Mr. Amador made the motion to approve the draft annual report send to the Board of Supervisors.

Mr. Ackermann seconded.

Mr. Amador said the annual report should be more of a summary as opposed to recommendations that may be divided because we are trying to tell the Board of Supervisors where there are issues. He said there were views of the Board that should have not been in the previous annual report.

Mr. Ingalls said this is a fine document that the Chair has prepared and it lays out exactly what we did and is a fact document. He said he could certainly not vouch for all the calculations and computations but would accept them as being as what they are and the best attempt at providing

them. He said one of the issues that was not a fact was on page four under legal advice the Chairman asked a question.

Ms. Kirkman said she was looking for guidance since this has been an issue for a couple of years.

Mr. Ingalls said the Board could ask for an attorney at every meeting through either the County or hire a separate attorney to attend every meeting. He said we could say we understand you are not going to do that but make sure that when we have a case that has been challenged in court that funds are readily provided. He said with funds readily provided we could already have determined who our lawyer is and anytime we have an issue we could go see them and the County would pay them. He said not being sure of the exact wording, but we really need to say what we want.

Mr. Amador said he agreed. He said he did not believe that the Board needs somebody here every meeting unless the County wants to provide that. He said he knows other Counties provide an assistant County Attorney to set through the hearings. He said the County may have some financial issues but at the very least, we do need an attorney for our appeals of our own decisions.

Ms. Rutledge said as a Board we have already decided and it is on the record that we did not get a legal opinion or attorney setting on our Board. She said as a Board we have requested an attorney for appeals from an individual, the County or an application that they are appealing our decision. She said it is important that we have legal representation.

Ms. Kirkman said one of the reasons she raised this issue is each and every time we have a need for legal representation we have to go to the Board of Supervisors on each request for funding for the attorney and find the attorney for each time rather than having an attorney on retainer ready to go. She said a lot of the time we have some short time frames to respond so part of what I was wondering was if we could be specific. She said each time they have granted our request.

Mr. Amador said no they have not.

Ms. Rutledge said perhaps if we had a fund in place. She said if we have a fund, we could perhaps go to a pool of attorneys in case there is a conflict with a case.

Ms. Kirkman said we could ask for an allocation of funds for the year.

Mr. Ackermann asked how the Board would determine what is appropriate.

Mr. Amador said that would be for them to find out and decide and if we exceed the amount we could go back and ask for more.

Mr. Ingalls said it would be hard to determine when we would be challenged.

Ms. Rutledge said the issue in the past has been yes, our record stands and that becomes part of the court document but it is not a response to a subpoena and in the court proceedings they can present additional evidence and that is why we need representation. She said we cannot individually act and represent the Board because that is the unlawful practice of law. She said we have to be represented by an attorney.

Mr. Amador said here is some suggestive language *The Board of Zoning Appeals requests that the Board of Supervisors set aside a fund for the Board of Zoning Appeals to engage legal representation to represent the Board of Zoning Appeals in appeals of its decision.*

Mr. Amador made the motion to approve the report with the additional change.

Ms. Rutledge seconded the motion.

Mr. Ingalls said he had one other issue he would like to bring out is the Floodway District Ordinance which we have had problems with. He said he would like to recommend to the Board of Supervisors to have staff look at the Flood Plain Ordinance. He said we have had issues over one foot, zero foot take effect and that someone should look at it.

Ms. Kirkman asked if it was a motion to amend the original motion.

Mr. Ingalls said it was.

Ms. Rutledge seconded the amended motion.

Mr. Amador said it would be better if we had the exact language before we approve the report.

Ms. Kirkman said she was not as convinced as Mr. Ingalls is at the necessity to request that staff review the Ordinance. She said after spending sometime deconstructing that Ordinance she actually thinks the confusion comes from thinking that parts of the Ordinance apply to all three components of the floodway district rather than recognizing that there are three separate components. She said each of those components have their own requirements. She said she was thinking about what would make more sense and if we hold a work session with Code Administration staff to better understand the Ordinance. She said after that if we want to make some specific recommendations about which parts are confusing in a separate document to the Board of Supervisors.

Mr. Ingalls said he did not have a problem with that but he does not want to leave it because there has been some confusion in the past and would like to see if it could be solved. He said he would withdraw his motion.

Ms. Rutledge said just as a point of discussion in the past the annual report has been a reflection of issues we encountered during the year so the Board of Supervisors and the public would know what kinds of issues we encountered. She said we definitely have encountered problems and had difficulty with it. She said if we just make a statement that, we did encounter these issues during the year. She said we had difficulty making interpretations and applying the Ordinance to the specific cases and they should know we had problems with it.

Mr. Amador said you believe there is enough confusion on that particular language.

Ms. Kirkman said it took her about half a day and what she found helpful was the Ordinance is actually tied to maps. She said she thinks it is clear as many of our Ordinances are and the issue is taking the time to deconstruct the Ordinance and understand which requirements. She said the floodway district is actually composed of three distinct parts and each part has its own requirements. She said in our discussions I had to make a list of the terms but the terms are floodplain district, floodway district, approximate floodplain district and floodfrindge district. She said she thinks some of the confusion has come from is interchanging those terms when in fact they need to be kept separate because they have separate requirements.

Mr. Amador said it would take us a half a day to go over this.

Ms. Kirkman said that is why she was suggesting a work session.

Ms. Rutledge said she did not believe the applicant is even aware of what part or map they are looking at.

Mr. Amador said he believes we need to agree to look at this matter later on for an explanation from the Zoning Administrator, move forward, and if there is still some confusion do a follow-up letter to the Board of Supervisors.

Mr. Ingalls said he agrees that approach.

Ms. Rutledge said as a point of clarification, I just want to ask, as a rule since I have been on the Board when we had factual information that covered the year's annual report we received that information from County staff. She said the information in the draft; did it come from County staff?

Ms. Kirkman said the information came from the approved minutes.

Ms. Rutledge asked who compiled the information.

Ms. Kirkman said she did and would be happy if staff wanted to read through the minutes and compile the information.

Ms. Rutledge said if we just addressed the different categories, the categories you have chosen are fine but the information should come from the County as opposed to one Board member.

Mr. Amador said he did not think it comes from one Board member, we had it reviewed it; the minutes are on the record.

Ms. Rutledge said yes, but one Board member prepared a computation from minutes as opposed to requesting the County staff give us those figures and the responsibility is not on one member of the Board. She said one member cannot represent this Board, seven members represent this Board.

Mr. Ackermann said he thinks it is the responsibility of the Board members, if they vote in favor of this to essentially say that this reflects the action of the Board for the previous year.

Mr. Ingalls said he could not vouch for the information without going through all the minutes.

Ms. Rutledge said she was just saying the information should come from County staff and not a Board member, that is what we have done in the past, and it has never been an issue.

Mr. Ackermann said if it is a report of this Board, it is the Board's responsibility to prepare.

Ms. Rutledge said County staff keeps track of all our statistical information and they keep track of the minutes and compile that information and the information should come from them.

Ms. Kirkman asked Ms. Rutledge if she had an amendment to motion, she would like to make.

Ms. Rutledge said she was confused, are we going to amend each and every motion for each and every section or what are we doing.

Ms. Kirkman said we have a motion on the floor that has been seconded to approve the report with the addition regarding the recommendation requesting a fund be set aside for attorney fees.

Ms. Rutledge said she would ask the motion maker to amend the motion to include statistical information be verified by County staff.

Ms. Kirkman said, I believe Ms. Rutledge if you would like to make a motion to amend you can do that.

Ms. Rutledge said she makes a motion to amend the motion on the floor to include that County staff verifies the statistical information in the annual report.

Ms. Kirkman said hearing no second the motion to amend the motion fails. She said is there any discussion on the original motion to approve the report with the addition of the request for attorney's fees.

Mr. Ingalls said his only statement is he cannot vouch for all the numbers and staff obviously can vouch for the numbers but will take at face value and if there are errors, they are errors that are honest mistakes.

Ms. Kirkman said if any of the Board members would like, she has all the minutes with the cases highlighted and are welcome to look at those.

Vote:

Motion to approve 4-1

Mr. Ingalls – yes

Ms. Rutledge – no

Ms. Kirkman – yes

Mr. Amador – yes

Mr. Ackermann - yes

REPORT BY DEPUTY ZONING ADMINISTRATOR

Ms. Hudson said Ms. Doherty has just passed out the draft agenda for the March 2007 meeting. She said there are two cases that should be before you, the Rocky Pen Reservoir and the School Board Special Exception for open space for additional parking at one of the schools.

Ms. Kirkman asked how the agenda for April 2007 looking.

Ms. Hudson said it looks to be quite light.

Ms. Rutledge said the Rocky Pen Reservoir is that a new application.

Ms. Hudson said yes it is.

Ms. Kirkman said it would also be helpful for the Board of Zoning Appeals to know that the Board of Supervisors voted at their last meeting and instructed staff to bring this application forward so that a public hearing could be held on the Special Exception and did instruct staff that

the application could not be withdrawn if there were five or more Board of Zoning Appeals members present.

ADOPTION OF MINUTES

January 23, 2007

Motion:

Mr. Ackermann made the motion to approve.

Mr. Amador seconded.

Vote:

Motion to approve 5-0

Mr. Ingalls – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Amador – yes

Mr. Ackermann - yes

OTHER BUSINESS

Motion:

Mr. Amador said he would like to make a motion to request from the Zoning Administrators office an explanation of the language of the floodplain Ordinance to be presented to the Board of Zoning Appeals.

Ms. Rutledge seconded.

Ms. Kirkman said she would like to clarify if the Board wanted a work session or if the agenda's are light, enough we could do at a meeting.

Ms. Rutledge said it could be done it at a meeting and if we feel we need to go have a special meeting, we can make a decision at that time.

Ms. Kirkman said she wanted to make sure there is enough time to review the Ordinance and if we decide in fact that, there is more legislative clarification that could be provided and want to make some recommendations on that.

Mr. Amador said his view on this, going back to the applicants coming before us as well. He said if it takes more then a session under Other Business then it is not clear. He said if you need a half a day to understand it we should reconsider sending a letter to the Board of Supervisors to review for clarification.

Vote:

Motion to approve 5-0

Mr. Ingalls – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Amador – yes

Mr. Ackermann - yes

Ms. Kirkman asked Ms. Hudson if staff could include the maps with that presentation because she particularly found that helpful.

Ms. Hudson said it would be a good idea to have staff come and do the presentation.

Ms. Kirkman said we really would like to have the maps.

Ms. Rutledge said she would suggest the April 2007 meeting.

Ms. Hudson said she would look at that agenda.

Ms. Kirkman said she would really like to have this done on a timely basis so if the agenda for April is to full we could do a workshop.

Ms. Hudson said she would get back to Ms. Kirkman with the status of the April agenda.

Ms. Rutledge said if we have to go into a special session or workshop could we also get some additional information on the Chesapeake Bay Act.

Mr. Amador said he would like to request that people coming into the meeting cut off their cell phones because the signals are interfering with the microphones and other equipment in the room.

Ms. Kirkman said she would personally like to thank Mr. Ingalls because this is her first time at being a Chairman and it is a daunting experience. She said he has been very helpful in terms of orienting her to the responsibilities and providing her with a pretty good outline of the things she needs to do as Chairman.

Motion:

Ms. Rutledge made the motion to adjourn.

Mr. Amador seconded.

Vote:

Motion to approve 5-0

Mr. Ingalls – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Amador – yes

Mr. Ackermann - yes

ADJOURNMENT

8:30 p.m.

WLD

Approved: _____ Date: _____
Rachel T. Hudson, Deputy Zoning Administrator